

## **REMARKS**

Pursuant to 37 C.F.R. §1.111, reconsideration of the instant application, as amended herewith, is respectfully requested. Entry of the amendment is requested.

Claims 1-8 are presently pending before the Office. No claims have been canceled. Applicant has amended the claims. No new matter has been added. Support for the amendments can be found throughout the specification as originally filed. Applicant is not intending in any manner to narrow the scope of the originally filed claims.

APPLICANT HEREIN REQUESTS A TELEPHONIC INTERVIEW AT A MUTUALLY AGREED UPON DATE AND TIME. APPLICANT RESPECTFULLY REQUESTS THAT THE EXAMINER AND THE SUPERVISORY PATENT EXAMINER BE PRESENT FOR THIS INTERVIEW.

Regarding the IDS submitted reference JP 11-29294 not considered by the Examiner, applicant notes that the subject matter intended to be considered are the Figures of the disclosure, which depict a cable/winch system. Applicant believes that the disclosure is related to pertinent art only. The examiner is requested to initial the 1449 form and annotate that the Figures only were considered.

The Examiner's Action mailed November 8, 2005 and the references cited therein have been carefully studied by Applicant and the undersigned counsel. The amendments appearing

herein and these explanatory remarks are believed to be fully responsive to the Action.

Accordingly, this important patent application is believed to be in condition for allowance.

Relying on 35 U.S.C. §102(b), the Examiner has rejected the subject matter of claims 1-3 and 5-7 as being anticipated by Hughes. Applicant respectfully traverses the rejection and requests reconsideration.

Applicant respectfully submits that it is important to note that, historically, the Office and the Federal Circuit has required that for a §102 anticipation, a single reference must teach (i.e., identically describe) each and every element of the rejected claim. The Office has steadfastly and properly maintained that view.

The Hughes patent fails this test.

Regarding claim 1, Hughes teaches a take-up reel for an electrical cable line connected to an electrically operated mining vehicle. As the electrically driven mining vehicle enters the mine shaft, the electrical cable trails behind it. When the electrically driven vehicle is exiting the mine shaft, the slack in the electrical cable is taken up with the system. A single electric motor 64 operates the chain drive to rotate the reel. The same motor 64 also operates the linkage system of Fig. 4 that moves the cable guide back and forth along shaft 54. Generally, no loads are being handled. It is merely a take-up reel to wind the electrical cable released as the mining vehicle traveled into the mine. It is not being used to pull the weight of the mining vehicle or any mined ore out of the shaft.

As noted in column 4 starting at line 68 and ending at column 5, line 3, the motor 64 of Hughes, when in operation, is continuously powered to provide a torque of 474 in-lb so that the cable remains under a tension in the range of 212 lbs to 289 lbs.

Clearly, the reel system of Hughes could never be considered applicable to the cable system used by fishing trawlers and shrimp boats.

Regarding claims 2 and 3, the examiner has misconstrued the structure of the Hughes oscillating means. Shaft 36 is connected to the motor 64. Shaft 36 is part of the drive system for the reel take-up drum.

Regarding claim 5, again the examiner has misconstrued the structure of Hughes. Shaft 36 is connected to gear box 68 and is not directly connected to ball joint 86 at free end 84 of pivot arm 76.

Regarding claim 7, the disclosure of Hughes may depict unnumbered pins for the rollers 116 penetrating and being attached to horizontal plates 114, however, the disclosure does not expressly state that rollers 116 have an inner core and a freely rotatable core. It appears that the only way plates 114 can be secured to chassis plates 56 is by welding the plates 114 to plates 56. Therefore, the upper plate 114 is not removable to allow for maintenance of the rollers 116.

The present invention is a cable winch system developed to prevent deaths of crew members due to the potential entanglement in the cable(s) being guided on the drum where the cable has a tension load of several thousand pounds. As noted on page 2 of the instant application, "there is a significant amount of tension in the cables. The trawl doors alone can weigh 2000-3000 pounds, and the drag force of the nets filled with shrimp also add a significant tension to the cable being wound."

It is important that the remote oscillation operating means of the present invention be not only independent of the drum drive means, but also have its handle remote located outside the envelope of the cable drum and travel of oscillation so that the crew member manually operating

the cable guide travel is not positioned under the cable travel foot print thereby eliminating the chances of being entangled in the cable. Further, locating the crew member away from the travel path of the cables further eliminates the chances of the crew member from getting injured when buoys or crab lines entwined in the cables, the flapping of the lines or the lines that break and snap can backlash against the operator and potential result in his death.

As noted in the specification, shortly before the filing of the instant application, a shrimp boat winch operator was killed in the Gulf of Mexico when his arm got entangled in the cables being wound. He was standing in front of the drum near the cables being wound. He could not reach the drum drive clutch to disengage the rotating drum, and was pulled into the drum reel. By locating the handle of the remote oscillation operating means away from harms way, then the winch operator can, when required, reach for the drum drive clutch safely without being endangered by the cables.

As noted in amended claim 1 herein, the remote oscillation operating means is operably **independent** of the means for rotating the drum. It is also configured **so as to be in a non-interfering relationship with the oscillation of the cable guide**. The remote oscillation operating means further has handle means for remote **manual operation**. The handle means is located **outside an envelope of the cable oscillation movements of the cable guide so that a winch operator manually operating the handle means can not be entrapped during its operation in the cable passing through the cable guide**.

These are structural features lacking in the Hughes reference. The oscillating system comprising the gear box and linkage system is driven by the same motor driving the reel. The two system are not driven by independent sources. The guide/oscillation system of Hughes can not be **manually operated** by a handle, which is located away from harms way of the winch

operator. The driver of the electric mine vehicle does not manipulate the oscillating/guide system manually and does not pull loads such as those encountered at sea with shrimp boats and the like.

Accordingly, each and every element of applicant's claims have not been taught in that single reference. Applicant therefore respectfully submits that claims 1-8 have not been anticipated by the Hughes patent under 35 U.S.C. §102(b), and respectfully requests that such rejection be withdrawn.

Relying on 35 U.S.C. §103(a), the Examiner has rejected the subject matter of claim 4 as obvious over Hughes in view of Buttles. Applicant respectfully traverses the rejection and requests reconsideration.

It is evident that Applicant's invention is decidedly different from the teachings of the patent. Applicant incorporates by reference the above arguments as they relate to Hughes. Regarding the Buttles reference, this reference discloses a clothes line reel system. This is a system that can not physically be combined as proposed by the examiner, with the Hughes reference as it requires manual operation while the Hughes system does not. The examiner states that the handle 8 controlling the cable guide 21 is attached to shaft 6. Shaft 6 is not connected to guide 21. Handle 8 is used to manually rotate the reel using a ratchet like system. Shaft 6 does run through the reel drum and is connected to a pinion gear 30, which meshes with a gear 31 and a system of other gears that mesh with gear 28 that in turn creates a cam action within slot 29 of a pin on gear 28 that in turn, through a linkage system pivots the guide 20. The shaft and handle of the present invention operates the oscillation means, while that of the Buttles reference operates

the cable drum. Accordingly, the Examiner has not established a prima facie case of obviousness.

Relying on 35 U.S.C. §103(a), the Examiner has rejected the subject matter of claim 8 as obvious over Hughes in view of Cleveland. Applicant respectfully traverses the rejection and requests reconsideration.

It is evident that Applicant's invention is decidedly different from the teachings of the patent. Applicant incorporates by reference the above arguments as they relate to Hughes. Regarding the Cleveland reference, this reference discloses a light weight, easily transportable reel system that can be worn on a person's back. Certainly the device of Cleveland can not physically be combined with the Hughes device to lift thousands of pounds of shrimp in a net being dragged by a fishing trawler. Accordingly, the Examiner has not established a prima facie case of obviousness.

Clearly, in the absence of any suggestion or any teaching whatsoever of how one skilled in the art would attempt to combine Hughes and Buttles or Hughes and Cleveland to produce a fishing vessel cable winch system for lowering nets into the water and raising nets from the water, one skilled in the art would certainly not find ample motivation to use the features noted by the examiner in the combined references to arrive at the present invention.

The Office has used the claimed invention as a reference against itself as if it had preceded itself in time. Legal authority invalidates such an analytical or reverse engineering approach to patent examination. It is not applicant's burden to refute the Office's position that it would have been obvious to one of ordinary skill in this art at the time this invention was made

to arrive at the present invention in view of the cited references. It is the burden of the Office to show some teaching or suggestion in the reference to support this allegation. Uniroyal, Inc. v. Rudkin-Wiley Corp., 837 F.2d at 1051, 5 U.S.P.Q.2d at 1438-39 (Fed. Cir. 1988).

A finding by the Office that a claimed invention would have been obvious to one of ordinary skill in the art at the time the invention was made based merely upon finding similar elements in a prior art reference would be "contrary to statute and would defeat the congressional purpose in enacting Title 35." Panduit Corp. v. Dennison Mfg. Co., 1 U.S.P.Q.2d 1593 at 1605 (Fed. Cir. 1987).

Applicant respectfully submits that the Examiner's legal reasoning is flawed. The knowledge of those skilled in the art is derived from the prior art, not from the Examiner's mental impression of what those skilled in the art might or might not know. It is the law as evidenced in Graham v. John Deere that is controlling. As enunciated by the Graham court, §103(a) requires a comparison of the claimed invention with the teachings of the prior art. Otherwise, the PTO could simply say "I'm skilled in the art. That claim is obvious." The rules and the law require that the Examiner point out where in the prior art lies Applicant's claimed invention in the context of what those skilled in the art know. If it is not there, the public is not in possession of the invention, and, therefore, a rejection under 35 U.S.C. §103(a) will not lie.

Accordingly, applicant respectfully submits that claims 1-8 are patentable over the cited patents under 35 U.S.C. §103(a). Withdrawal of the rejection is respectfully requested.

### CONCLUSION

As the Federal Circuit observed in Orthopedic Equipment Co. v. United States, 702 F.2d 1005, 217 U.S.P.Q. 193 (Fed. Cir. 1983):

The question of nonobviousness is a simple one to ask, but difficult to answer ...  
The difficulty which attaches to all honest attempts to answer this question can be attributed to the strong temptation to rely on hindsight while undertaking this evaluation. It is wrong to use the patent in suit as a guide through the maze of prior art references, combining the right references in the right way so as to achieve the result of the claims in suit. Monday morning quarterbacking is quite improper when resolving the question of nonobviousness ...

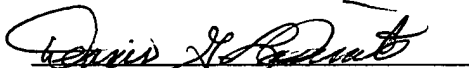
Even though the initial claims in this important patent application were drawn to a new, useful and nonobvious invention, they have now been amended to increase their specificity of language.

A Notice of Allowance is earnestly solicited.

If the Office is not fully persuaded as to the merits of Applicant's position, or if an Examiner's Amendment would place the pending claims in condition for allowance, a telephone call to the undersigned at (727) 943-9300 would be appreciated.

Very respectfully,

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